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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hsu :
Application No. 10/669,422 :
Filed: September 24, 2003 :
Attorney Dkt. No. PE0673 US NA :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 10, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. As no claim was allowed, the application became abandoned on November 11, 2010. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$1620; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Petitioner has requested that the previously paid extension of time fee be applied to the petition to revive fee. However, the extension of time submitted on September 10, 2010 was used for the timely submission of the Notice of Appeal. As such petitioner is not entitled to a refund or a re-application of the fees for a different purpose.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuation application No. 13/045,207.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read "Charlema Grant", followed by a stylized flourish.

Charlema Grant
Attorney
Office of Petitions